

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA, }
Plaintiff, } CR. NO. 10-249
vs. }
NATHAN DANIEL LARSON, }
Defendant. }

December 7, 2012

BEFORE: THE HONORABLE GERALD BRUCE LEE
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT: OFFICE OF THE UNITED STATES ATTORNEY
BY: CAROL THOMPSON, ESQ.

FOR THE DEFENDANT: OFFICE OF THE FEDERAL PUBLIC DEFENDER
BY: BROOKE RUPERT, ESQ.

OFFICIAL COURT REPORTER: RENECIA A. WILSON, RMR, CRR
U.S. District Court
401 Courthouse Square
Alexandria, VA 22314
(703)501-1580

(Thereupon, the following was heard in open court at 9:27 a.m.)

3 THE CLERK: 1:10 criminal 249, United States
4 versus Nathan Daniel Larson.

5 MS. THOMPSON: Good morning, Your Honor.
6 Carol Thompson for the United States.

7 THE COURT: Good morning.

8 MS. RUPERT: Good morning, Your Honor.

9 Brooke Rupert on behalf of Mr. Larson who is present.

10 THE COURT: Good morning, Ms. Rupert.

11 | Good morning, Mr. Larson.

12 MR. LARSON: Good morning.

13 THE COURT: Ms. Rupert, I

14 Mr. Larson have review the supervisory release violation?

15 MS. RUPERT: Yes, Your Honor. We have
16 reviewed the petition.

17 THE COURT: And does he admits or deny the
18 admission?

19 MS. RUPERT: Your Honor, Mr. Larson admits
20 the violation. I would, however, like to clarify a
21 statement within the petition.

THE COURT: Okay.

23 MS. RUPERT: The violation alleges
24 communication with two convicted felons, one by letter
25 and one by phone. The clarification comes with respect

1 to the phone conversation.

2 The petition alleges that Mr. Larson and an
3 inmate discussed lying to Probation in order to get
4 through supervision.

5 I have two points of clarification. I have
6 provided a copy of the conversation yesterday. The
7 statement that Mr. Larson should lie was not said
8 explicitly. Neither parties to the conversation said
9 anything about lying.

10 The person who made the statement that could
11 potentially be construed as lying was not Mr. Larson. It
12 was another inmate.

13 Mr. Larson mentioned that he had an
14 appointment with a therapist the following day and that
15 his appointments -- that would be his first appointment,
16 that things had been delayed.

17 The other inmate said that Mr. Larson should
18 just roll with it, that he's almost done. He'll be done
19 soon. Keep the -- you know, essentially to keep the
20 finish line in mind.

21 Mr. Larson acknowledged the statement before
22 moving on to another topic.

23 THE COURT: All right, thank you.

24 Ms. Thompson, the government wants to be
25 heard in this matter?

1 MS. THOMPSON: Your Honor, the government
2 would agree with the representation just given by defense
3 counsel and then unless Your Honor has anything further
4 that was not already said in the papers.

5 THE COURT: Well, I just want to know if the
6 government wants to be heard earlier. You don't have to
7 if you don't want to.

8 MS. THOMPSON: No, response. No, Your Honor.
9 Thank you.

10 THE COURT: All right, thank you.

11 Ms. Rupert, let me say out loud that there
12 are several problems that I have, and I need
13 Mr. Larson -- can you hear me, Mr. Larson?

14 MR. LARSON: Yes, sir.

15 THE COURT: I'm concerned about Mr. Larson's
16 mental health on several levels. Number one, the
17 original offense involves the President of the United
18 States. That's number one.

19 Number two is concern about infatuation with
20 children and sex.

21 Number three is this website and where that's
22 headed. What does that portend for the future, and four,
23 whether he will embrace the therapy that we're trying to
24 give him because we're all worried about future conduct.

25 I can't punishment him for what his thoughts

1 are, and I don't want to do that. I can't punish him
2 for his attractions. But I have to monitor them if
3 they're risky behavior because I have a responsibility to
4 the public to insure that, first of all, that he's not a
5 danger to himself or anyone else.

6 And so, when I read things that have been
7 read -- set forth here, suicide by a cop, when someone
8 hears that out loud, Mr. Larson, the first thing we think
9 is we have someone who has a mental health problem,
10 someone who is even thinking about suicide and then to
11 make the police or law enforcement officer to be a part
12 of it by getting a gun -- I can't control what you do.
13 You probably could get a gun. I don't know.

14 But I worry about it. And so, when you --
15 when you manifested this behavior in that way, it makes
16 me think what I got to do is protect the public and lock
17 him up for a very, very long time.

18 So why shouldn't I do that?

19 MS. RUPERT: Your Honor, if I may consult
20 with Mr. Larson about the statements you made before I
21 make my --

22 THE COURT: Sure. Take as much as time as
23 you need.

24 MS. RUPERT: Your Honor, Mr. Larson
25 understands the Court's concerns. We submit, however,

1 that further incarceration is not the best way to address
2 those concerns. Rather continued supervision is the best
3 way to address those concerns. That way Mr. Larson can
4 go about receiving the mental health treatment that he
5 needs.

6 As the Court's aware, the Court does not have
7 to revoke in this situation. This is not a violation
8 that requires automatic revocation.

9 The Court can continue Mr. Larson on
10 supervision, and we believe that's the best course of
11 action.

12 As noted in our position paper, although
13 there have been obstacles, Mr. Larson has faced obstacles
14 on this go-round of supervision, he has made remarkable
15 progress at this time. This progress has been remarked
16 upon by his mother who is present in the courtroom today.

17 THE COURT: Where is his mother?

18 MS. RUPERT: (Indicating)

19 THE COURT: Okay, thank you for coming.

20 MS. RUPERT: She has noted a traumatic change
21 in Mr. Larson this time. He's been much less depressed
22 and much less angry and more helpful around the house.

23 Ms. Larson works and Mr. Larson has taken on
24 a number of household chores. Ms. Larson has said that
25 Mr. Larson has been a wonderful companion this time

1 around which was something she could not have said last
2 time.

3 She has been able to take Mr. Larson to visit
4 relatives, and she's noted that he has been able to
5 reconnect with old friends. This is also different from
6 the previous time of supervision.

7 Mr. Larson has committed to attending his
8 mental health treatment. During our discussion just now,
9 he said that he -- he takes the Court's comments to
10 heart. He understands where the Court would express
11 concerns, but he has no intent of harming himself or
12 anyone else.

13 He will refocus and do what is required of
14 him, including the therapy sections. And I will note in
15 the petition notes that Mr. Larson has been compliant
16 with the mental health treatments. He has not missed any
17 sessions with the therapist or with the probation
18 officer.

19 And, the Court referenced his, I guess,
20 Internet project. It's a project that he's begun. It's
21 called the Inclupedia. And like the name implies, it's
22 said to be an Internet encyclopedia much like Wikipedia,
23 however, more inclusive.

24 Mr. Larson, this has been a dream of his.
25 When speaking with Mr. Larson about this project

1 yesterday, you could tell that he was very excited about
2 it.

3 I'm unfortunately not as technologically
4 savvy as he is, and I was asking questions about the
5 project. And his face lit up when he was talking about
6 it. He describes the project as both a mirror and a
7 supplement to Wikipedia.

8 It's been a dream of his to work on something
9 like this. As someone who loves to write and likes
10 information sharing, this project is right down his
11 alley. He's proud to work on and he's proud to have the
12 support of people who are willing to back him into the
13 software programing necessary for the project.

14 Working towards this has given Mr. Larson a
15 brighter outlook. The Court mentioned some concerns with
16 other interests of Mr. Larson.

17 As I described in our position, I think the
18 two convicted felons that Mr. Larson was in contact with
19 were sex offenders.

20 Mr. Larson was incarcerated at FCC
21 Petersburg, a facility that has a high concentration. So
22 many of the people that he met there, that was their
23 offense of conviction.

24 In speaking with them and during his period
25 of incarceration, he learned about the treatment of sex

1 offenders by the Bureau of Prisons and as well as a
2 movement to revamp the sex offender guidelines and
3 punishment with respect to that.

4 Mr. Larson all along has been an avid
5 researcher and took to researching those issues, and I
6 believe that's the context that these conversations and
7 communications occurred in.

8 Mr. Larson himself has not been convicted of
9 those crimes and is not interested in those things beyond
10 intellectual research perspective.

11 Your Honor, Mr. Larson said yesterday that he
12 thought about this violation during this period of
13 detention. He thought about it from all perspective.

14 When he communicated with these -- these
15 convicted felons, he had no intention of engaging in
16 criminal activity or furthering criminal activity. And
17 so that was not his intent.

18 But now looking at it, he understands why the
19 condition is in place and agrees that he should have
20 sought permission before speaking -- before communicating
21 with those individuals.

22 Had he to do it over again, he would have
23 requested permission and we would not have been here
24 today.

25 We submit that additional incarceration is

1 not needed to drive home this point, Your Honor,
2 Mr. Larson gets the points, and he gets it loud and
3 clear.

4 And we also submit that it might be
5 counterproductive to Mr. Larson given his mental health
6 concerns and frankly given the nature of the violation
7 which is association with convicted felons, sending
8 Mr. Larson back to a facility would have him in
9 contact -- constant contact with convicted felons.

10 We believe that continued supervision,
11 however, is appropriate and will allow the Court to
12 address any rehabilitative goals of sentencing. We
13 believe that's appropriate here.

14 If the Court wants to have additional --
15 additional supervision over Mr. Larson, we suggest
16 perhaps coming back in a month or 6 weeks for a status to
17 see how he's doing in the meantime.

18 THE COURT: All right. Mr. Larson, if you'd
19 come to the podium with your lawyer, please.

20 Mr. Larson, is there any statement you want
21 to make?

22 MR. LARSON: Yes, sir. I'm very sorry that I
23 didn't get permission and that I didn't abide by the
24 orders of my supervised release. And I'm also very sorry
25 that -- about my life, the concern for alarming the Court

1 and my counselor.

2 I know that I overreacted to the situation
3 when I was upset at some of the comments that she had
4 made. And Mr. Keith came in and we talked about it with
5 the counselor. And he brought to my attention, you know,
6 those statements, you know, make the hairs on the back of
7 people's necks stand up. And he said next time call him
8 with my concerns and try to address it in a more
9 constructive way. And so, I'm taking that to heart.

10 I apologize. I don't have any intent to harm
11 anyone. I don't want to live the criminal lifestyle. I
12 just want to focus on enjoying the companionship of my
13 parents and working this project which is my dream.

14 I also -- I agree with what my attorney said
15 that -- some of the things I've written on the Internet,
16 sometimes I'll take the devil's advocate point of view.
17 It doesn't necessarily mean that -- sometimes I'll engage
18 in thought experiments just to see where things go. It
19 doesn't necessarily mean that that's my fixed opinion.

20 And in the interview of my fellow prisoner, a
21 lot of times, I challenge his thinking in that interview
22 and I -- he had a very pro-pedophilic viewpoint, and I
23 was asking him a lot of questions, you know, like how do
24 you respond to arguments about -- how does, you know
25 images might embarrass people later. They might feel bad

1 about them being out there.

2 So I think there might have been at least 10
3 or 15 questions where I was really hitting hard on those
4 points. And so, my goal is to benefit society.

5 It's -- and, I hope that the Court will give
6 me another chance. I want to be respectful to my
7 counselor. I'm committed to doing that and being
8 cooperative.

9 You know the -- I've spent four days in jail
10 this week and that's given me another taste of prison and
11 I just really don't want to go back there. I really want
12 to -- I really want to be a productive member of society.

13 I believe I have a lot of potential. I've
14 been making progress. I've been developing code, gaining
15 confidence at it. And I believe that the Inclupedia,
16 this Internet company I'm building could be important for
17 the world.

18 Again, I recognize that it's my fault that
19 I'm here that -- I shouldn't -- it shouldn't have to take
20 this to make me take seriously, you know, impact that my
21 actions and my words cause on people.

22 But, you know, this arrest, this being put in
23 jail again, you know, it's brought that home to me. And
24 I'm very sincere about that. I really want to succeed.
25 I want to get through this period of probation

1 successfully. And I want to be truthful to my probation
2 officer, and I'm committed to doing that.

3 THE COURT: Mr. Larson, those are all the
4 things I would hope you would say and hope you sincerely
5 believe.

6 I told your lawyer and I wanted you to hear
7 my thought process about all the information provided to
8 me and my responsibility as a judge to insure, first,
9 that you get mental health treatment, that you embrace it
10 because it will help.

11 And, we've given you some freedom somewhat.
12 It's restricted because we need to know what you're doing
13 and where you are. And I really don't have any objection
14 to your having opinions about politics, about history,
15 about government or anything.

16 MR. LARSON: Uh-huh.

17 THE COURT: But when you start talking about
18 sex with children and posting pictures of children in
19 provocative poses in underwear, maybe not child
20 pornography, but it's just odd that that would be a part
21 of your website to me if your interest is to build
22 something that everybody can participate in.

23 When I look on Wikipedia, there's so much
24 information there. You start an encyclopedia at A and go
25 to Z, pedophilia is so far down the line and pictures of

1 children in provocative poses is so far down the line
2 that I'm not sure you could be there in 6 months or
3 8 months.

4 So it's just strange and it's scarey.
5 Because I have on many Fridays people come before me who
6 say that they were on the Internet looking for adult
7 pornography and somehow stumbled upon child pornography
8 and got fascinated with it.

9 And the federal law is five years in prison,
10 ten years, very, very severe sentences that I'm imposing
11 because we're concerned about people who want to traffic
12 in and use that kind of material.

13 So in the back of my mind, I'm concerned
14 about that, and I'm concerned about the suicide by cop
15 issue. And so, it seems to me that there has to be a
16 sanction imposed here.

17 And I do agree with you and your lawyer that
18 additional treatment is necessary and additional
19 supervision is necessary. But I want to provide
20 additional treatment in a custodial setting.

21 So what I'm going to do is this. I'm going
22 to find that you're in violation. I'm going to sentence
23 you to 10 months in federal custody. I'm going to send
24 you to FCI Butner. That's my recommendation to the
25 Bureau of Prisons or a federal medical facility where you

1 can receive intensive psychiatric treatment.

2 When you're released, I'm going to keep you
3 on supervised release for another 24 months.

4 Let me just say out loud. I don't want to
5 keep you on supervised release any more than I have to.
6 I really don't. But I'm going to extend the term for at
7 least one year. It should be one year, for one year.

8 And, require when you come out that you be on
9 GPS four or five months so we know where you're going and
10 what you're doing.

11 The conditions that were previously imposed
12 including mental health treatment remain and are amended
13 to include not only participating in sex offender
14 treatment and providing information to the probation
15 officer but that you submit to polygraph testing as
16 directed by the probation officer as part of the sex
17 offender treatment, that you not possess and use a
18 computer or online services without the prior approval of
19 probation officer, including Internet service, public or
20 private computer network.

21 I will allow you to participate in a computer
22 monitoring program administered by the Probation Office
23 which will require information to be monitored by
24 computer software to any computer which you have access
25 to which will monitor your activities on the Internet and

1 capture key strokes, e-mail, and other things.

2 And a notice will be placed on the computer
3 to warn others of the existence of monitoring software.

4 You're not to have contact with children,
5 female children or children -- let's say children, unless
6 supervised by competent, informed adult approved in
7 advance by the probation officer.

8 You're not to possess pornography of any
9 kind, adult or otherwise, no pornography, period. And
10 you must not participant in any voluntary positions
11 involving children.

12 These conditions I think are warranted. Some
13 sanction is warranted in hope that if you're able to come
14 back and after 5 or 6 months and things are going well
15 and if your probation officer thinks it's appropriate to
16 end supervisory release, I'd be glad to do it.

17 MS. RUPERT: Your Honor, we object to the
18 imposition of further incarceration. We also object to
19 the additional conditions of supervision, particularly
20 imposition of the sex offender treatment. Mr. Larson has
21 not been convicted of a sex offense. We also object to
22 the condition of the use of the computer.

23 THE COURT: All right.

24 MS. RUPERT: And we object to the length of
25 the imposition of the additional incarceration.

1 MR. LARSON: I --

2 THE COURT: Thank you.

3 MR. LARSON: I also -- it's my understanding
4 of 18 USC 3583 that the term of supervision that I served
5 earlier or rather the incarceration, the 24 months that I
6 served is supposed to be subtracted from the three-year
7 maximum.

8 So it's supposed to be three years minus
9 those two years. So that's the reason why my term of
10 supervised release this time was one year.

11 And if I'm going to be serving ten more
12 months in prison, then that would also be deducted. So
13 that would get -- provide a maximum of two extra months
14 of supervised release if I'm not mistaken.

15 THE COURT: All right. Well, you and your
16 lawyer can submit a written brief describing that to me.
17 And if you're right, then I'll do just what you say. And
18 I'll hear it on any Friday. Thank you.

19 MS. RUPERT: Thank you, Your Honor.

20 (Proceedings concluded at 9:51 a.m.)

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CERTIFICATE OF REPORTER

I, Renecia Wilson, an official court reporter for the United State District Court of Virginia, Alexandria Division, do hereby certify that I reported by machine shorthand, in my official capacity, the proceedings had upon the hearing in the case of United States of America vs. Nathan D. Larson.

I further certify that I was authorized and did report by stenotype the proceedings and evidence in said hearing, and that the foregoing pages, numbered 1 to 17, inclusive, constitute the official transcript of said proceedings as taken from my shorthand notes.

14 IN WITNESS WHEREOF, I have hereto subscribed
15 my name this 19th day of December, 2012.

/s/
Renecia Wilson, RMR, CRR
Official Court Reporter